

IN SENATE OF THE UNITED STATES.

FEBRUARY 5, 1846.

Submitted, and ordered to be printed.

Mr. BREES made the following

REPORT :

[To accompany bill S. No. 61.]

The Committee on Public Lands have had under consideration the bill for the relief of Benjamin Harris, of La Salle county, State of Illinois, and ask leave to report :

That the object of the bill is to secure to Benjamin Harris, or his assignee, the advantage of a pre-emption to a small portion of land, for which he obtained the certificate of entry in 1835, but which was afterwards cancelled, he not having made his election of one of two tracts, which he had claimed, within the time required by the act of the 19th of June, 1834.

The committee have seen no valid reason why the entry now should not be permitted at the minimum price; and refer the Senate to the letter of the Commissioner of the General Land Office, as containing all the facts of the case, and as warranting the committee in recommending that the bill do pass.

GENERAL LAND OFFICE, *January 20, 1846.*

SIR: I have the honor to acknowledge the receipt of your letter of the 17th instant, in reference to the southeast part of the northwest fractional quarter 12, township thirty-three north, range 3 east, in the Dixon district, Illinois, heretofore entered by Benjamin Harris as a pre-emption under the act of June 19, 1834, which entry has been cancelled.

You request a history of the case, and also to be advised if the interests of the government, or any private right, would be injuriously affected by the passage of a law authorizing Benjamin Harris, or his assignee, to enter said tract now at the minimum price.

Under the first section of the act of 1834, a right of pre-emption was given for the entry of a tract of land *cultivated* by the claimant in the year 1833, and in his *possession* on the 19th June, 1834; and, under the second section of the act, a right arose to the choice between two tracts, one of which was *cultivated* in 1833, and the other *resided on* on the 19th of June, 1834, provided the claimant should designate, within six months from the passage of the law of 1834, the tract which he intended to claim.

In the case of Mr. Harris, (whose entry, No. 2,109, was made on the

5th May, 1835, at the Danville land office, whilst the land was in the bounds of that district,) the testimony shows that the tract entered was not cultivated by Mr. Harris in 1833, but that he had built a house thereon and was in possession thereof on the 19th June, 1834, by a tenant having, during the year 1833, cultivated the northeast quarter 14, same township and range; and that no designation of the tract claimed was made until the 17th of April, 1835, some months after the period prescribed by the second section of the law. His claim under the first section failed, from a want of cultivation, in 1833, of the tract entered; and that under the second section also failed, from his not having designated, prior to the 19th of December, 1834, whether he intended to claim the tract cultivated in 1833, or that in his possession by the residence of his tenant on the 19th June, 1834, even if the second section was applicable to his case, as he was not *personally residing* on said tract.

Mr. Henry Green, of Ottawa, it would appear from the correspondence of this office, is the assignee of Mr. Harris; if so, that fact will render any special action unnecessary, as it respects withholding the tract from sale until an act can be passed for the relief of Mr. Harris's assignee.

To the passage of such an act this office knows of no objections which would affect the public interests, or those of any private individual.

With much respect, your obedient servant,

JAMES SHIELDS,
Commissioner.

Hon. SIDNEY BREESE,
Senate United States.